

AMENDED IN ASSEMBLY MAY 23, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 582

Introduced by Assembly Member Evans

February 21, 2007

An act to amend Sections 8030.4 and 8030.6 of the Business and Professions Code, and to amend Sections 69950 and 69951 of, and to add Section 69951.5 to, the Government Code, relating to court transcription fees, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 582, as amended, Evans. Court transcription fees.

(1) Existing law establishes the Court Reporters Board of California and makes that board responsible for issuing a certificate to practice shorthand reporting to qualified applicants. Under existing law, until July 1, 2009, excess funds, as specified, generated by the initial certificate fee collected by the board are used to provide shorthand reporting services for indigent persons, as defined, and are transferred from the Court Reporters' Fund into the Transcript Reimbursement Fund, a continuously appropriated fund, for expenditure for that purpose. Under existing law, an applicant, as defined, does not include a person appearing pro se to represent himself or herself at any stage of the case. Under existing law, the maximum amount reimbursable from the Transcript Reimbursement Fund may not exceed \$20,000 per case per year.

This bill would, instead, provide that the term “applicant” includes an unrepresented indigent person. The bill would prohibit an unrepresented indigent person from receiving funds from the Transcript Reimbursement Fund if that fund contains an amount equal to or less than an unspecified amount. The bill would also provide that an applicant who is a qualified legal services project, qualified support center, other qualified project, or pro bono attorney, as defined, may apply to receive funds regardless of whether the applicant is representing a person who appeared pro se at any stage of the case. The bill would provide that for an applicant who appears pro se and is not represented by a qualified legal services project, qualified support center, other qualified project, or pro bono attorney, the maximum amount reimbursable from the fund may not exceed \$1,000 per year. By authorizing the expenditure of money in a continuously appropriated fund for a new purpose, the bill would make an appropriation. The bill would also make technical, nonsubstantive changes to these provisions.

Existing

(2) Existing law establishes the fees for obtaining court transcriptions. Under existing law, the fee for the original printed copy of the court transcript is \$0.85 for each 100 words, and for each copy purchased at the same time by a court, party, or other person purchasing the original is, \$0.15 for each 100 words. Under existing law, the fee for a first copy to any court, party, or other person who does not simultaneously purchase the original is \$0.20 for each 100 words, and for each additional copy, purchased at the same time, \$0.15 for each 100 words. Existing law also provides that for a transcript in a civil case, an official court reporter or official court reporter pro tempore may charge an additional 50% for special daily copy service.

This bill would, instead, provide that from January 1, 2008, to December 31, 2008, inclusive, the fee for the original printed court transcript and for each copy purchased at the same time by a court, party, or other person purchasing the original shall be an unspecified amount per page. The bill would provide that the fee for a first copy of the transcript to a court, party, or other person who does not simultaneously purchase the original and for each additional copy purchased at the same time shall be an unspecified amount. The bill would also provide that from January 1, 2009, to December 31, 2009, inclusive, and on and after January 1, 2010, these costs shall increase in an unspecified amount. The bill would provide that on or before April 1, 2011, and every April 1 thereafter, these costs shall be increased

according to the cumulative increase in the Consumer Price Index for All Urban Consumers, as specified. The bill would further provide that the fee for transcription is an additional 50% for the special daily copy service.

This bill would require that a transcript prepared by an official reporter or official reporter pro tempore employed by a court shall be subject to a specified format.

This bill would *also* make legislative findings and declarations that in order to ensure full and fair compensation of official court reporters and court reporters pro tempore employed by the courts, and in order to attract and retain official court reporters and court reporters pro tempore employed by the courts that have sufficient skills and competence to serve the needs of the justice system, it is imperative that the system of dual compensation for official court reporters and court reporters pro tempore employed by the courts provide sufficient payment for transcription services.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that in order
2 to ensure full and fair compensation of official court reporters and
3 court reporters pro tempore employed by the courts, and in order
4 to attract and retain official court reporters and court reporters pro
5 tempore employed by the courts that have sufficient skills and
6 competence to serve the needs of the justice system, it is imperative
7 that the system of dual compensation for official court reporters
8 and court reporters pro tempore employed by the courts provide
9 sufficient payment for transcription services.

10 SEC. 2. Section 8030.4 of the Business and Professions Code
11 is amended to read:

12 8030.4. As used in this chapter:

13 (a) "Qualified legal services project" means a nonprofit project
14 incorporated and operated exclusively in California that provides
15 as its primary purpose and function legal services without charge
16 to indigent persons, has a board of directors or advisory board
17 composed of both attorneys and consumers of legal services, and
18 provides for community participation in legal services
19 programming. Legal services projects funded either in whole or

1 in part by the Legal Services Corporation or with Older Americans
2 Act funds are presumed to be qualified legal services projects for
3 the purposes of this chapter.

4 (b) “Qualified support center” means an incorporated nonprofit
5 legal services center, having an office or offices in California,
6 which office or offices provide legal services or technical assistance
7 without charge to qualified legal services projects and their clients
8 on a multicounty basis in California. Support centers funded either
9 in whole or in part by the Legal Services Corporation or with Older
10 Americans Act funds are presumed to be qualified legal services
11 projects for the purposes of this chapter.

12 (c) “Other qualified project” means a nonprofit organization
13 formed for charitable or other public purposes, not receiving funds
14 from the Legal Services Corporation or pursuant to the Older
15 Americans Act, which organization or association provides free
16 legal services to indigent persons.

17 (d) “Pro bono attorney” means ~~any~~ *an* attorney, law firm, or
18 legal corporation, licensed to practice law in this state, that
19 undertakes without charge to the party, the representation of an
20 indigent person, referred by a qualified legal services project,
21 qualified support center, or other qualified project, in a case not
22 considered to be fee generating as defined in this chapter.

23 (e) (1) “Applicant” means a qualified legal services project,
24 qualified support center, other qualified project, or pro bono
25 attorney applying to receive funds from the Transcript
26 Reimbursement Fund established by this chapter. ~~The term~~
27 ~~“applicant” shall not include persons appearing pro se to represent~~
28 ~~themselves at any stage of the case, regardless of whether the~~
29 ~~applicant is representing a person who appeared pro se at any~~
30 ~~other stage of the case.~~

31 (2) “Applicant” *also means an unrepresented indigent person,*
32 *except that an unrepresented indigent person shall not be eligible*
33 *to receive funds from the Transcript Reimbursement Fund when*
34 *that fund contains an amount equal to or less than ____ dollars*
35 *(\$____).*

36 (f) (1) “Indigent person” means any of the following:

37 (A) A person whose income is 125 percent or less of the current
38 poverty threshold established by the Office of Management and
39 Budget of the United States.

40 (B) A person who is eligible for supplemental security income.

1 (C) A person who is eligible for, or receiving, free services
2 under the Older Americans Act or the Developmentally Disabled
3 Assistance Act.

4 (D) A person whose income is 75 percent or less of the
5 maximum level of income for lower income households as defined
6 in Section 50079.5 of the Health and Safety Code, for purposes of
7 a program that provides legal assistance by an attorney in private
8 practice on a pro bono basis.

9 (2) For the purposes of this subdivision, the income of a person
10 who is disabled shall be determined after deducting the costs of
11 medical and other disability-related special expenses.

12 (g) "Fee-generating case" means any case or matter that, if
13 undertaken on behalf of an eligible client by an attorney in private
14 practice, reasonably may be expected to result in payment of a fee
15 for legal services from an award to a client, from public funds, or
16 from an opposing party. A reasonable expectation as to payment
17 of a legal fee exists wherever a client enters into a contingent fee
18 agreement with his or her lawyer. If there is no contingent fee
19 agreement, a case is not considered fee generating if adequate
20 representation is deemed to be unavailable because of the
21 occurrence of any of the following circumstances:

22 (1) If the applicant has determined that referral is not possible
23 because of any of the following:

24 (A) The case has been rejected by the local lawyer referral
25 service, or if there is no such service, by two private attorneys who
26 have experience in the subject matter of the case.

27 (B) ~~Neither the~~ The referral service ~~nor~~ or any lawyer will *not*
28 consider the case without payment of a consultation fee.

29 (C) The case is of the type that private attorneys in the area
30 ordinarily do not accept or do not accept without prepayment of
31 a fee.

32 (D) Emergency circumstances compel immediate action before
33 referral can be made, but the client is advised that, if appropriate
34 and consistent with professional responsibility, referral will be
35 attempted at a later time.

36 (2) If recovery of damages is not the principal object of the case
37 and a request for damages is merely ancillary to an action for
38 equitable or other nonpecuniary relief or inclusion of a
39 counterclaim requesting damages is necessary for effective defense
40 or because of applicable rules governing joinder of counterclaims.

(3) If a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) “Legal Services Corporation” means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) “Supplemental security income recipient” means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, Public Law 92-603, as amended, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) “Lawyer referral service” means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) “Older Americans Act” means the Older Americans Act of 1965, Public Law 89-73, as amended.

(l) “Rules of professional conduct” means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) “Certified shorthand reporter” means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) performing shorthand reporting services pursuant to Section 8017.

(n) “Case” means a single legal proceeding from its inception, through all levels of hearing, trial, and appeal, until its ultimate conclusion and disposition.

(o) “Developmentally Disabled Assistance Act” means the Developmentally Disabled Assistance and Bill of Rights Act of 1975, (42 U.S.C. Sec. 6001 et seq.) as amended.

(p) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 8030.6 of the Business and Professions Code is amended to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund for the costs, exclusive of per diem charges by official reporters, of preparing either an original transcript and one copy ~~thereof~~ *of the transcript*, or where appropriate, a copy

1 of the transcript, of court or deposition proceedings, or both,
 2 incurred as a contractual obligation between the shorthand reporter
 3 and the applicant, for litigation conducted in California. If there
 4 is no deposition transcript, the board may reimburse the applicant
 5 or the certified shorthand reporter designated in the application
 6 for per diem costs. The rate of per diem for depositions shall not
 7 exceed seventy-five dollars (\$75) for a half day, or one hundred
 8 twenty-five dollars (\$125) for a full day. If a transcript is ordered
 9 within one year of the date of the deposition, but subsequent to
 10 the per diem having been reimbursed by the Transcript
 11 Reimbursement Fund, the amount of the per diem shall be deducted
 12 from the regular customary charges for a transcript. Reimbursement
 13 may be obtained through the following procedures:

14 (a) The applicant or certified shorthand reporter shall promptly
 15 submit to the board the certified shorthand reporter's invoice for
 16 transcripts together with the appropriate documentation as is
 17 required by this chapter.

18 (b) Except as provided in subdivision (c), the board shall
 19 promptly determine if the applicant or the certified shorthand
 20 reporter is entitled to reimbursement under this chapter and shall
 21 make payment as follows:

22 (1) Regular customary charges for preparation of original
 23 deposition transcripts and one copy ~~thereof of the transcript~~, or a
 24 copy of the transcripts.

25 (2) Regular customary charges for expedited deposition
 26 transcripts up to a maximum of two thousand five hundred dollars
 27 (\$2,500) per case.

28 (3) Regular customary charges for the preparation of original
 29 transcripts and one copy ~~thereof of the transcript~~, or a copy of
 30 transcripts of court proceedings.

31 (4) Regular customary charges for expedited or daily charges
 32 for preparation of original transcripts and one copy ~~thereof of the~~
 33 ~~transcript~~, or a copy of transcripts of court proceedings.

34 (5) The charges may not include notary or handling fees. The
 35 charges may include actual shipping costs and exhibits, except
 36 that the cost of exhibits may not exceed thirty-five cents (\$0.35)
 37 each or a total of thirty-five dollars (\$35) per transcript.

38 (c) ~~The~~ (1) Except as described in paragraph (2), the maximum
 39 amount reimbursable by the fund under subdivision (b) may not
 40 exceed twenty thousand dollars (\$20,000) per case per year.

1 (2) *If an applicant appears pro se and is not represented by a*
2 *qualified legal services project, qualified support center, other*
3 *qualified project, or pro bono attorney, the maximum amount*
4 *reimbursable by the fund under subdivision (b) may not exceed*
5 *one thousand dollars (\$1,000) per year.*

6 (d) If entitled, and funds are available, the board shall forthwith
7 disburse the appropriate sum to the applicant or the certified
8 shorthand reporter when documentation as provided in subdivision
9 (d) of Section 8030.8 accompanies the application. A notice shall
10 be sent to the recipient requiring the recipient to file a notice with
11 the court in which the action is pending stating the sum of
12 reimbursement paid pursuant to this section. The notice filed with
13 the court shall also state that if the sum is subsequently included
14 in any award of costs made in the action, that the sum is to be
15 ordered refunded by the applicant to the Transcript Reimbursement
16 Fund whenever the sum is actually recovered as costs. The court
17 may not consider whether payment has been made from the
18 Transcript Reimbursement Fund in determining the appropriateness
19 of any award of costs to the parties. The board shall also forthwith
20 notify the applicant that the reimbursed sum has been paid to the
21 certified shorthand reporter and shall likewise notify the applicant
22 of the duty to refund any of the sum actually recovered as costs in
23 the action.

24 (e) If not entitled, the board shall forthwith return a copy of the
25 invoice to the applicant and the designated certified shorthand
26 reporter together with a notice stating the grounds for denial.

27 (f) The board shall complete its actions under this section within
28 30 days of receipt of the invoice and all required documentation,
29 including a completed application.

30 (g) Applications for reimbursements from the fund shall be
31 filled on a first-come basis.

32 (h) Applications for reimbursement that cannot be paid from
33 the fund due to insufficiency of the fund for that fiscal year shall
34 be held over until the next fiscal year to be paid out of the renewed
35 fund. Applications held over shall be given a priority standing in
36 the next fiscal year.

37 (i) This section shall become inoperative on July 1, 2009, and,
38 as of January 1, 2010, is repealed, unless a later enacted statute,
39 that becomes operative on or before January 1, 2010, deletes or
40 extends the dates on which it becomes inoperative and is repealed.

1 SEC. 4. Section 69950 of the Government Code is amended to
2 read:

3 69950. ~~(a) The~~ A transcript prepared by an official reporter
4 or official reporter pro tempore employed by a court shall be
5 subject to the following:

6 (a) (1) From January 1, 2008, to December 31, 2008, inclusive,
7 the fee for transcription for the original ~~ribbon or printed copy is~~
8 ~~eighty-five cents (\$0.85) for each 100 words~~ transcript shall be
9 _____ dollars (\$____) per page, and for each copy purchased at
10 the same time by the court, party, or other person purchasing the
11 original, ~~fifteen cents (\$0.15) for each 100 words~~ _____ cents
12 (\$____) per page.

13 (2) From January 1, 2009, to December 31, 2009, inclusive,
14 the fee for the original printed transcript shall be _____ dollars
15 (\$____) per page, and for each copy purchased at the same time
16 by the court, party, or other person purchasing the original, _____
17 cents (\$____) per page.

18 (3) From January 1, 2010, to December 31, 2010, inclusive,
19 the fee for the original printed transcript shall be _____ dollars
20 (\$____) per page, and for each copy purchased at the same time
21 by the court, party, or other person purchasing the original, _____
22 cents (\$____) per page.

23 (b) ~~The~~ (1) From January 1, 2008, to December 31, 2008,
24 inclusive, the fee for a first copy to any court, party, or other person
25 who does not simultaneously purchase the original shall be ~~twenty~~
26 ~~cents (\$0.20) for each 100 words~~ _____ cents (\$____) per page, and
27 for each additional copy, purchased at the same time, ~~fifteen cents~~
28 ~~(\$0.15) for each 100 words~~ _____ cents (\$____) per page.

29 (2) From January 1, 2009, to December 31, 2009, inclusive,
30 the fee for a first copy to any court, party, or other person who
31 does not simultaneously purchase the original shall be _____ cents
32 (\$____) per page, and for each additional copy, _____ cents (\$____)
33 per page.

34 (3) From January 1, 2010, to December 31, 2010, inclusive,
35 the fee for a first copy to any court, party, or other person who
36 does not simultaneously purchase the original shall be _____ cents
37 (\$____) per page, and for each additional copy, _____ cents (\$____)
38 per page.

39 (c) On or before April 1, 2011, and on or before each April 1
40 thereafter, the amounts described in paragraph (3) of subdivisions

1 (a) and (b) shall be increased proportionally by the increase in
2 the Consumer Price Index for All Urban Consumers, as published
3 by the United States Bureau of Statistics, for the previous calendar
4 year, to be rounded up to the nearest cent by the Administrative
5 Office of the Courts. The Administrative Office of the Courts shall
6 also publish an updated transcript fee schedule and those increased
7 fees shall take effect on that April 1.

8 SEC. 5. Section 69951 of the Government Code is amended to
9 read:

10 69951. ~~For transcription, in civil cases, the reporter may charge~~
11 *The fee for transcription is an additional 50 percent for special*
12 *daily copy service.*

13 SEC. 6. Section 69951.5 is added to the Government Code, to
14 read:

15 69951.5. (a) A transcript prepared by an official reporter or
16 official reporter pro tempore employed by a court shall be subject
17 to all of the following:

18 (1) Except as described in paragraph (9), the paper shall be
19 white or unbleached recycled paper, 8½ by 11 inches in size, and
20 at least a 20-pound weight.

21 (2) There shall be 28 lines per page, numbered in consecutive
22 order from 1 to 28, inclusive. The line numbers shall begin at the
23 left margin as described in paragraph (7).

24 (3) Each line shall contain up to 62 characters per line,
25 excluding line numbers and time stamping, and each line shall
26 contain as many words as will fit within the 62 characters per line
27 format. For purposes of this paragraph, characters include blank
28 spaces.

29 (4) Text shall be double-spaced.

30 (5) Transcripts shall not include a box or border around the
31 text.

32 (6) Typeface shall be essentially equivalent to Courier, Times
33 New Roman, or Arial.

34 (7) The left margin of each page shall be 1.25 inches or 1.30
35 inches from the left edge of the paper

36 (8) A volume shall be limited to the proceedings from one day
37 and each volume shall be designated by date. The cover page of
38 each volume shall be the first numbered page and pages shall be
39 numbered in consecutive order as described in paragraph (10).

1 (9) *The cover of each volume shall state the title and trial court*
2 *number of the case, the name of the trial court, the names of any*
3 *trial court judges participating in the case, and the names and*
4 *addresses of counsel for each party. It is preferred that the cover*
5 *is recycled stock.*

6 (10) *Each page shall be consecutively numbered at the bottom*
7 *right of the page, below the last line of text.*

8 (11) *Transcripts shall be bound on the left side of the document.*

9 (12) *The colloquy section shall be subject to all of the following:*

10 (A) *Each question, answer, and parenthetical shall be in a*
11 *separate paragraph.*

12 (B) *Except as described in subparagraph (C), each speaker*
13 *shall be identified on the first line of the paragraph, starting after*
14 *the line number, in all capital letters immediately followed by a*
15 *colon.*

16 (C) *If there is a continuous question and answer between two*
17 *speakers, each speaker shall be identified on the first line in the*
18 *first paragraph of text attributed to that speaker and the speaker*
19 *is not required to be identified in subsequent paragraphs until*
20 *there is text attributed to a speaker who is not part of the*
21 *continuous question and answer.*

22 (D) *A paragraph regarding a question shall be labeled with the*
23 *“Q.” symbol and a paragraph regarding an answer shall be*
24 *labeled with the “A.” symbol.*

25 (E) *A paragraph that consists of a parenthetical shall begin five*
26 *spaces from the left margin. A parenthetical shall be limited to*
27 *two lines.*

28 (F) *When the name of a speaker appears on a line, there shall*
29 *be two spaces between the colon immediately following the*
30 *speaker’s name and a symbol described in subparagraph (D), and*
31 *the text of the paragraph shall begin two spaces after the symbol.*

32 (G) *When the name of the speaker does not appear on a line,*
33 *the symbol described in subparagraph (D) shall begin five spaces*
34 *from the left margin, and the text of the paragraph shall begin five*
35 *spaces after the symbol.*

36 (H) *Each subsequent line of text after the first line in a*
37 *paragraph shall begin after the line number.*

38 (13) *The text of quoted material and jury instructions shall, on*
39 *the first line, begin 10 spaces from the left margin, and each*
40 *subsequent line shall begin five spaces from the left margin.*

1 (14) *The index for each volume shall be subject to all of the*
2 *following:*

3 (A) *A chronological list of the witnesses that includes, but is*
4 *not limited to, the name of each witness and the type of examination*
5 *with page numbers.*

6 (B) *An exhibit index that includes, but is not limited to, the*
7 *exhibit designation, the page number upon which the exhibit is*
8 *identified, and the page number upon which the exhibit is received*
9 *into evidence.*

10 (C) *If the transcript is related to a case in which a defendant*
11 *may be subject to the death penalty, the index shall include, but is*
12 *not limited to, the identification of all sealed proceedings and the*
13 *names of all parties present during that proceeding.*

14 (15) *If a transcript consists of more than one volume, the court*
15 *reporter or court reporter pro tempore shall also prepare a master*
16 *index separate from an index described in paragraph (14). The*
17 *master index shall include the following items in order:*

18 (A) *Duplicate copies, in chronological order, of the cover page*
19 *for each volume of the transcript.*

20 (B) *Duplicate copies, in chronological order, of each index for*
21 *each volume of the transcript.*

22 (C) *Duplicate copies, in chronological order, of each reporter's*
23 *certificate for each volume of the transcript.*

24 (b) *For purposes of this section, "page" means a page required*
25 *by statute, rule, regulation, or order of the court.*